

## REMARKS

Claims 1-16 are pending in the present application and stand rejected. The Examiner's reconsideration is respectfully requested in view of the following remarks.

Claims 1-16 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Herz et al. (hereinafter "Herz"). The rejection is respectfully traversed.

In support of its rejection, the Office Action recites verbatim portions of paragraphs 24, 32 and 37 of Herz (hereinafter "recited portion of Herz"). The Office Action, however, does not address any of the claim limitations in claims 1-16. It should be reminded that the Examiner is required to address each *and* every limitation of the claims. Without such references to the claims, Applicants are improperly left to *guess* as to how the recited portions of Herz purportedly anticipate the limitations of claims 1-16. Nevertheless, Applicants will address the claim rejections as best as possible.

Claim 1 claims, *inter alia*, "retail sales state management means for managing the retail sales state *of said product*." In the three primary functions of Herz, as disclosed by the Office Action, none disclose the concept of managing the retail sales state of a product. A primary concern of Herz is identifying offers appropriate *for each customer* based on demographic and consumer information *of the customer* (Herz, paragraphs 24 and 32), as opposed to managing the retail sales state *of the product* itself. As a result, customized prices and promotions tailored *to each individual consumer* are provided. (Herz, paragraph 24). Thus, the recited portion of Herz does not disclose "retail sales state management means for managing the retail sales state *of said product*," as claimed in claim 1.

Because the recited portion of Herz does not disclose "managing the retail sales state of said product," it follows that it does not disclose "price setting means for dynamically setting the price of said product in accordance with rules and *the retail sales*

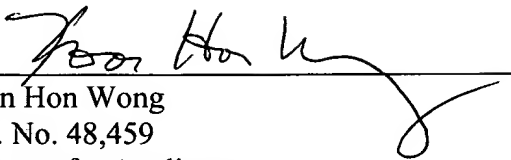
*state of said product* and in accordance with the actual retail sales status of said product when managed by said retail sales state management means,” also as claimed in claim 1.

Claim 1 claims, *inter alia*, “upon the receipt of an *information request* via said communication network, *furnishing...information* concerning said product and said price of said product.” The recited portion of Herz provides a system of generating offers, such as coupons, advertisements and promotions. (Herz, paragraph 27). The main computer *predicts* which offers the shopper would likely accept and *unilaterally* sends the offer to prospective customers. (Herz, paragraphs 37 and 38). No request for information is presented to the main computer in Herz prior to the dissemination of offers. Thus, the recited portion of Herz does not disclose “upon the receipt of an *information request* via said communication network, *furnishing...information* concerning said product and said price of said product,” as claimed in claim 1.

Accordingly, claim 1 believed to be patentably distinguishable over the Herz. The arguments presented for claim 1 apply, at least in part, to independent claims 4, 5, 9, 10, 11, 13, 14 and 16. Dependent claims 2-3, 6-8, 12 and 15 are believed to be allowable for at least the reasons given for the independent claims. Withdrawal of the rejection of claims 1-16 under 35 U.S.C. §102(e) is respectfully requested.

In view of the foregoing remarks, it is respectfully submitted that all the claims now pending in the application are in condition for allowance. Early and favorable reconsideration is respectfully requested.

Respectfully submitted,

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